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January 29, 2004

HAND DELIVERY

Robert A. Krawcheck, Esq.
Assistant County Attorney
Miami-Dade County Attorney
111 N.W. First St., Suite 2801
Miami, FL 33128-1993

RECEIVED
FEB - 6 2004
ZONING SERVICES DIVISION, DADE COUNTY
DEPT. OF PLANNING & ZONING
BY _____

Re: *Miami-Dade County Zoning Application Z2003000123*
Country Club Towers Phase II

Dear Bob:

Please accept this letter as a follow-up to our meeting on January 27th, 2004, regarding the above-referenced zoning application. As I stated during that meeting, it is our belief and strong contention that the current application to alter and partially re-develop the Country Club Towers and Country Club of Miami Villages Center properties in order to create one unified residential community with a combined density of 740 apartment units is consistent with the applicable provisions of the Miami-Dade County Comprehensive Development Master Plan (CDMP) through, among other things, the application of unutilized development rights granted in Resolution No. 4-ZAB-98-85 (hereinafter the "1985 Resolution").

The 1985 Resolution, passed and adopted by the Dade County Zoning Appeals Board prior to the implementation of the current CDMP, granted a use variance to the Country Club Towers property permitting a maximum development density level of 30.9 units per acre, which equates to a total development potential of 408 dwelling units. Recognizing that such private property rights afforded by prior zoning approvals should not be arbitrarily infringed upon with the adoption of the current CDMP, Miami-Dade County expressly provided that such approvals run with the land. This *grandfathering* provision is set forth in the section of the CDMP Future Land Use Element entitled "Concepts and Limitations of the Land Use Plan Map." In pertinent part, this section reads as follows:

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Mr. Krawcheck
January 29, 2004
Page 2

"All existing lawful uses and zoning are deemed to be consistent with this Plan unless such a use or zoning (a) is found through a subsequent planning study, as provided in Land Use Policy 4E, to be inconsistent with the criteria set forth below; *and* (b) the implementation of such a finding will not result in a temporary or permanent taking or in the abrogation of vested rights as determined by the Code of Metropolitan Dade County, Florida. The criteria for determining that an existing use or zoning is inconsistent with the plan are as follows: 1) Such use or zoning does not conform with the conditions, criteria or standards for approval of such a use or zoning in the applicable [Land Use Plan (LUP)] map category; *and* 2) The use or zoning is or would be incompatible or has, or would have, an unfavorable effect on the surrounding area: by causing an undue burden on transportation facilities including roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, police and schools; by providing inadequate off-street parking, service or loading areas; by maintaining operation hours, outdoor lighting or signage out of character with the neighborhood; by posing a threat to the natural environment including air, water and living resources; or where the character of the buildings, including height, bulk, scale, floor area ratio or design would detrimentally impact the surrounding area. [Where these detriments are established, the CDMP provides the following]. The presence of an existing use or zoning will not prevent the County from initiating action to change zoning in furtherance of the Plan map, objectives or policies where the foregoing criteria are met."

(CDMP, Future Land Use Element I-62 & I-63). In applying this provision to the current application it is evident that the use variance granted in the 1985 Resolution remains to be consistent with the policies, goals and objectives of the CDMP and, as such, is legally sustainable.

First, there have been no findings generated from a subsequent planning study that the zoning rights granted in the 1985 Resolution are inconsistent with the criteria listed above. In fact, the exact opposite is true. The Department of Planning and Zoning together with the Department of Environmental Resource Management (DERM), the Public Works Department, etc., have issued recommendations to the Miami-Dade County Developmental Impact Committee that the proposed

Mr. Krawcheck
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development of the Country Club Towers Phase II project is indeed consistent with the applicable provisions of the CDMP, the Code of Miami-Dade County, and compatible with the surrounding area. Additionally, above and beyond meeting the minimum applicable standards set forth in these regulations, the proposed development has been recognized as one that will promote the goals of the CDMP by fostering infill urban development and providing additional affordable housing in Miami-Dade County. Also, the applicant has proffered a monetary contribution to the Miami-Dade County School Board to mitigate the costs of any increased impact upon the public school system that was accepted in addition to impact fees. All other reviewing public service agencies that have studied the proposed development project have each determined that applicable concurrency levels have been met and the same are sufficient to accommodate the proposed residential complex.

In addition to the above language, the CDMP also states that where a change of land use is proposed for a property that holds development rights under these grandfather provisions, the previous land use approval must either be disregarded or, in the alternative, altered in such a way as to make the use or zoning substantially more consistent with the Plan. However, to apply this portion of the regulations to the present application would be error. The applicant's request to modify development plans approved as a separate request in the 1985 Resolution does not represent a change in the property's land use. The 1985 Resolution approved a site plan that allowed existing large rental units to be converted into smaller, more marketable, units that would have increased the density level for the Country Club Towers from 320 to 400 units. However, as you are aware, this conversion plan never took place and the Country Club Towers property remains as a 320-unit rental community. Through the current application, the applicant seeks approval to utilize this approved but undeveloped density allowance by reconfiguring the permitted additional apartment units into a single six-story tower to be located in the center of the existing residence courtyard. This request, however, does not represent a change of land use and does not invalidate the applications consistency with the goals, objectives and policies of the CDMP. The CDMP, I-34, specifically provides as follows: "[A]ll existing uses and zoning are deemed consistent with this Plan . . ." A subsequent request to modify a site plan where no additional density is sought cannot be deemed as inconsistent. We have worked long and hard to meet all of the concerns previously raised by the Director of Planning and Zoning as to fashioning a site plan which meets the issues relating to compatible heights of structures in the area. We have now received the Director's favorable recommendation for approval.

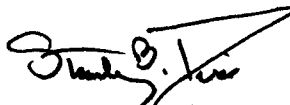
Lastly, it is important to note that the above conclusions regarding the current applications consistency with the CDMP mirror the statements and written recommendations issued by the Director of the Miami-Dade County Department of Planning and Zoning who, as mandated by ordinance, is entrusted with interpreting, applying, and making formal determinations regarding an applications consistency with the CDMP. This authorization of power should not be disturbed

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unless there is a clear, unequivocal violation of the express provisions of the CDMP. Mere conjecture as to how a reviewing judicial body will interpret the Director's interpretation of the CDMP should not form the basis of a denial of this application. This is the criteria to be applied, each instance wherein the Director opines as to the CDMP's interpretation could evoke some alternate inference or interpretation. This has never been nor was it the intent of the County Commission when it vested the power of interpretation to the Director.

Your prompt attention and response to this letter is greatly appreciated.

Cordially,



Stanley B. Price

Enclosure

cc: Jose Milton
Joe Milton
Diane O'Quinn Williams, DP&Z Director
William W. Riley, Esquire

BILZIN SUMBERG BAENA PRICE & AXELROD LLP

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JAN 09 2004

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY _____

January 9, 2004

VIA HAND DELIVERY

Ms. Diane O'Quinn Williams
Miami-Dade County Department of
Planning and Zoning
Eleventh Floor
111 N.W. First Street
Miami, Florida 33128

Re: *Miami-Dade County Zoning Application Z2003000123
Property Folio Numbers 30-2011-003-0010 & 30-2011-005-0010*

FIFTH REVISED LETTER OF INTENT

Dear Ms. Williams:

Please accept this correspondence as our revised letter of intent regarding the above-referenced Miami-Dade Zoning Application for Public Hearing. This firm represents Jose Milton and Jose Milton Trust (collectively the "Applicant"), owners of approximately 19.312 contiguous acres of land situated along NW 186th Street and NW 68th Avenue in Miami-Dade County.

By and through the amended application, a copy of which is enclosed herein, the Applicant respectfully seeks approval of the following requests: Pertaining exclusively to the Country Club of Miami Village Center property—(1) a district boundary change from BU-1A to RU-4; (2) deletion of three agreements executed on May 5th, 1971, tying the commercial development of the Country Club of Miami Village Center property to plans prepared by Carson Bennett Wright entitled Apartment Complex for Country Club of Miami as recorded in ORB 7397, pages 597 through 603, ORB 7397, pages 604 through 609, and in ORB 7397, pages 620 through 625; (3) a non-use variance to permit the construction of the proposed parking garage at the Village Center property with a setback of 15' from the east side property line and 21' from the rear property line; Pertaining exclusively to the Country Club Towers property—(4) modification of Resolution No. 4-ZAB-98-85 substituting previously approved development plans with those submitted in conjunction with this application; Pertaining to both the Country Club of Miami Village Center and the Country Club Towers properties—(5) an unusual use for

Ms. Diane O'Quinn Williams

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two entrance features permitting a guardhouse, a decorative fountain and four separate gated entranceways that will collectively service the proposed unified residential community.

Statement of Proposed Development

The two properties that comprise the subject of this application include a 13.204± acre tract of land located at 6790 NW 186 Street (hereinafter the "Country Club Towers") together with a 6.108± acre tract of land located at 18255-18345 NW 68th Avenue (hereinafter the "Country Club of Miami Village Center"). As shown on the attached development plans prepared by architect Salvador M. Cruxent and last dated January 8th, 2004, the Applicant is seeking zoning approval to redevelop the Country Club of Miami Village Center into residential apartments and to unify the Village Center property with the existing Country Club Towers apartment complex—its neighbor to the north—through the execution of a Declaration in Lieu of a Unity of Title, a draft copy of which is attached hereto. The proposed development, if approved, will allow for a free flowing residential community where residents can share and enjoy large open green spaces and common areas, swimming pools, recreational buildings, ingress and egress access points to and from both N.W. 186th Street and N.W. 68th Avenue, and ample off street parking with nearly 1300 parking spaces.

Based upon the following analysis, we submit that the proposed redevelopment of the Country Club Village Center (an existing commercial retail complex), the planned improvements to the Country Club Towers property (an existing residential community), and described unification of the two properties are consistent with the goals, policies, and objectives of the Miami-Dade County Comprehensive Development Master Plan (CDMP) and are compatible with the surrounding area.

A. Consistency

The properties that comprise the subject of this application, as described above, enjoy individual and distinct land use designations and zoning classifications. The Country Club of Miami Village Center property, for instance, is currently developed and operated as a commercial retail complex and is designated OFFICE/RESIDENTIAL on the County's CDMP Future Land Use Map. According to the Land Use Element of the CDMP, residential development within the OFFICE/RESIDENTIAL category is permitted to proceed at "one density [level] higher than that allowed in the adjoining or adjacent residentially designated area

Ms. Diane O'Quinn Williams

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on the same side of the abutting principal roadway." (CDMP Land Use Element I-36). In the instant case, all residentially designated areas abutting the Village Center property are designated MEDIUM DENSITY residential permitting 13 to 25 dwelling units per gross acre. One category higher than this density level is MEDIUM-HIGH DENSITY residential, which permits development of 25 to 60 dwelling units per gross acre. In terms of the Village Center property, this provision of the CDMP supports a density level of 366 residential units. In turn, the RU-4 zoning classification, which is currently being proposed by the Applicant for this property, supports a development density of 55 units per net acre with the allocation of severable use rights.¹ Collectively, therefore, the development density regulations applicable to the Country Club of Miami Village Center property permit the construction of 336 residential units. As a result, the Applicant's request for approval to develop 330 residential units at the Village Center property is consistent with the density regulations applied through both the CDMP and Chapter 33 of the Miami-Dade County Code.

The Country Club Towers property, on the other hand, is an existing multi-family apartment complex approved with a development density of 30.9 units per acre allowing for the construction of 408 dwelling units. *See* Resolution No. 4-ZAB-98-85. Notwithstanding this permitted density level, however, the Country Club Towers property is currently developed with only 320 units leaving an unutilized development potential of 88 dwelling units. The Applicants proposal to modify the development plans associated with the existing Country Club Towers complex, as shown on the enclosed plans, requests approval to construct an additional residential tower with 84 dwelling units, which is well within the density perimeters established by Resolution 4-ZAB-98-85.

B. Compatibility

In addition to the forgoing, the proposed residential development is also compatible with the surrounding area. The term *compatible*, as defined in the American Heritage Dictionary, means "capable of existing or performing in harmonious, agreeable, or congenial combination." It denotes an element of commonality between two items but it does not require those items to be identical. The Village Center property is situated among a variety of commercial, residential, and public facility uses. A survey of land uses within this area demonstrates that the proposed residential development of the Village Center does indeed share a commonality to adjacent

¹ *See* Miami-Dade County Code Section 33B-45 (2004).

Ms. Diane O'Quinn Williams

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development and, as such, is "compatible" with the development density and intensity of the community.

Immediately to the west of the Country Club Towers property is the highly dense Country Club Plaza shopping center, which comprises approximately 11 acres of land and consists of 108,964± square feet of retail space. To the south of the Country Club Plaza shopping center, abutting the eastern border of the Village Center property, is American Senior High School. In turn, to the west of the subject properties, directly across NW 68th Avenue, is a 348-unit multi-family residential development. To the south of the properties lies two individual tracts of land, one zoned commercial under the BU-1A classification and the other zoned limited apartment house residential (RU-4L) allowing the development of 23 residential units per net acre.

The provision of Section I-36 that is applicable to the facts of the present application, the fourth provision addressing compatibility, provides for the following development restrictions:

"Residential uses are also allowed in the Office/Residential category. In these locations, residential density may be approved up to one density category higher than that allowed in the adjoining or adjacent residentially designated area on the same side of the abutting principal roadway, or up to the density of existing adjoining or adjacent residential development, or zoning if the adjacent or adjoining land is undeveloped whichever is higher."

This provision of the CDMP acts to encourage future residential development within the OFFICE/RESIDENTIAL district and, at the same time, ensures compatibility with adjacent uses by restricting development based upon the permitted density level of adjacent residential communities. As aforementioned, the Village Center is almost entirely surrounded by land designated MEDIUM DENSITY residential. As such, in accounting for elements of sound urban planning, the CDMP directs that any future residential development of the Village Center should occur in accordance with the provisions governing development within the MEDIUM-HIGH DENSITY category. Section I-25 of the Future Land Use Element discussing the MEDIUM-HIGH DENSITY category provides as follows:

Ms. Diane O'Quinn Williams

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This category authorizes apartment buildings ranging from 25 to 60 dwelling units per gross acre. In this category, the height of buildings and, therefore, the attainment of densities approaching the maximum depends to a great extent on the dimensions of the site, conditions such as location and availability of services, ability to provide sufficient off-street parking, and the compatibility with and impact of the development on surrounding areas.

As expressed earlier in this letter, the overall dimensions of the subject properties comprise nearly 20 contiguous acres of land. The site provides ample green space, spacing dimensions, and recreational facilities. Additionally, the Applicant has met with various staff representatives from the Miami-Dade County Department of Public Works, the Parks Department, as well as the Fire Department. After reviewing the application individually and later collectively at the Development Impact Review Committee Lower Council meeting, each of these Departments have expressly indicated that the proposed residential development satisfies all applicable level of service requirements and, as such, offered no objections to recommending approval of the application. Moreover, the Applicant has provided an abundance of off-street parking to serve both residents and visitors of the redeveloped residential complex. As shown on the plans, 1,269 parking spaces are provided.

As indicated at the beginning of this analysis, the proposed redevelopment is compatible with the surrounding area. For the character of the "surrounding area" is defined with: (1) a 108,964± square foot retail-shopping plaza; (2) a 30±-acre senior high school; (3) a 348-unit apartment building; and (4) the existing 320 unit Country Club Towers property. In addition, a 330-unit multi-family apartment complex is located at 7055 NW 186 Street and a 768 unit apartment complex, with heights up to 5 stories, is located at 7010, 6990, 6970, 6952, & 6930-92 NW 186 Street.

*In terms of aesthetic considerations for height comparisons, it is important to note that the two proposed six story residential towers, as shown on the enclosed development plans, have a height of 53 feet. The existing five story towers, however, are approximately 43 feet and 4 inches in height, leaving a height differential of only 9 feet and 6 inches. As such, the difference in height comparisons between the new and old residential towers will be *de minimis* and practically unnoticeable at pedestrian/street level. *

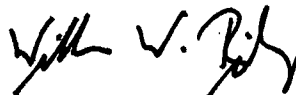
Ms. Diane O'Quinn Williams

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January 9, 2004

Thank you for your consideration of this application. We look forward to your favorable review of the enclosed Application. If we can provide you with additional information or documents, please do not hesitate to contact me at (305) 375-6139.

Very truly yours,

A handwritten signature in black ink, appearing to read "William W. Riley", written in a cursive style.

William W. Riley

Enclosure

cc: Stanley B. Price, Esquire

BILZIN SUMBERG BAENA PRICE & AXELROD LLP

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December 31, 2003

VIA HAND DELIVERY

Ms. Diane O'Quinn Williams
Miami-Dade County Department of
Planning and Zoning
Eleventh Floor
111 N.W. First Street
Miami, Florida 33128

Re: *Jose Milton*
Miami-Dade County Zoning Application Z2003000123
Property Folio Numbers 30-2011-003-0010 & 30-2011-005-0010

Dear Ms. Williams:

As you requested during our meeting on Monday, December 29th, 2003, we have enclosed copies of the building elevation drawings for the Fairgreen Villas apartment complex located at 7055 NW 186 Street, copies of which are on file with the Miami-Dade County Building Department. As shown on these plans, the Fairgreen Villas has a building height of 44' - 5" and a 4' parapet. When comparing the Fairgreen Villas with the existing five-story residential buildings at the Country Club Towers apartment complex, which comprise a portion of the subject properties associated with the above-referenced application, the Fairgreen Villas are shown as being taller by 1' - 1". As such, the height differential between the Fairgreen Villas and the proposed six-story residential towers at the Country Club Towers and the Country Club of Miami Village Center properties is 8' - 5".

Based upon the foregoing information, we submit that the proposed six-story residential towers currently under consideration in the above-referenced application are compatible in height with existing buildings located within the surrounding area.


Additionally, please note that our office requested additional elevation drawings for the residential towers located at 6930-92, 6970, 6990, and 7010 NW 186 Street. Unfortunately, however, we have been advised by the Miami-Dade County Building Department that plans for

Director O'Quinn Williams
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these buildings, which were built in 1973, have been destroyed and are completely unavailable. Please find a copy of the Building Department's microfilm research request form enclosed showing that plans for properties built between the years of 1961 and 1974 are not available.

Thank you for your continued assistance with this matter. As always, if you have any questions about the foregoing or enclosure, please do not hesitate to contact me at 305-375-6139.

Very Truly Yours,



William W. Riley

WWR:

Enclosures

cc: Stanley B. Price, Esquire

BILZIN SUMBERG BAENA PRICE & AXELROD LLP

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3rd Revised LOI.
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ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY

November 7, 2003

VIA HAND DELIVERY

Ms. Diane O'Quinn Williams
Miami-Dade County Department of
Planning and Zoning
Eleventh Floor
111 N.W. First Street
Miami, Florida 33128

Re: *Jose Milton & Jose Milton Trust*
Miami-Dade County Zoning Application Z2003000123
Property Folio Numbers 30-2011-003-0010 & 30-2011-005-0010

THIRD REVISED LETTER OF INTENT

Dear Ms. Williams:

Please accept this correspondence as our second revised letter of intent regarding the above-referenced Miami-Dade Zoning Application for Public Hearing. This firm represents Jose Milton and Jose Milton Trust (collectively the "Applicant"), owners of approximately 19.312 contiguous acres of land situated along NW 186th Street and NW 68th Avenue in Miami-Dade County.

The properties that comprise the subject of this application include a 13.204± acre tract of land located at 6790 NW 186 Street (hereinafter the "Country Club Towers Subdivision") together with a 6.108± acre tract of land located at 18255-18345 NW 68th Avenue (hereinafter the "Country Club of Miami Village Center"). By and through the enclosed amended public hearing application, the Applicant respectfully requests the following:

Ms. Diane O'Quinn Williams

Page 2

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Pertaining exclusively to the Country Club of Miami Village Center property

- (1) Withdrawal of the Applicant's previous request for a district boundary change from BU-1A to RU-4;
- (2) Entry of a request for a special exception to permit the development and operation of a residential community in the BU-1A zone;
- (3) An unusual use for two entrance features permitting a guardhouse and two separate gated entranceways that will collectively service the proposed unified residential community;
- (4) A non-use variance to permit the construction of the proposed residential buildings at the Country Club of Miami Village Center property with a setback of 47' from the front West property line where 48.2' is required;
- (5) A non-use variance to permit the construction of the proposed residential garage building at the Village Center property with a setback of 15' from the East side property line where 25' is required;
- (6) A non-use variance to permit 7' high masonry walls where 6' is permitted; and
- (7) Deletion of three agreements executed on May 5th, 1971, tying the commercial development of the Country Club of Miami Village Center property to plans prepared by Carson Bennett Wright entitled Apartment Complex for Country Club of Miami as recorded in ORB 7397, pages 597 through 603, ORB 7397, pages 604 through 609, and in ORB 7397, pages 620 through 625;

Pertaining exclusively to the Country Club Towers Subdivision property—

- (8) A modification of Resolution No. 4-ZAB-98-85 substituting previously approved development plans as set forth below.

*Would require:
- Right of Way
- Wall run*

Ms. Diane O'Quinn Williams

Page 3

November 7, 2003

Statement of Proposed Development

As shown on the attached development plans as prepared by architect Salvador M. Cruxent and last dated October 31, 2003, the Applicant is seeking zoning approval to redevelop the Country Club of Miami Village Center into residential apartments and, at the same time, seeks to unify the Village Center property with the existing Country Club Towers apartment complex—its neighbor to the north—through the execution of a Unity of Title or declaration in lieu thereof. The proposed development if approved, will allow a free flowing residential community where residents can share and enjoy large open green spaces and common areas, swimming pools, recreational buildings, a community convenience store, ingress and egress access points to and from both N.W. 186th Street and N.W. 68th Avenue, and ample off street parking with more than 1300 parking spaces.

Based upon the following analysis, we submit that the proposed redevelopment and property unification are both consistent with the goals, policies, and objectives of the Miami-Dade County Comprehensive Development Master Plan (CDMP) and are compatible with the surrounding area.

The Country Club of Miami Village Center

The Country Club of Miami Village Center ("Village Center") is currently developed as a commercial retail complex. Abutting the property to the north is the Country Club Towers Subdivision. The Country Club Towers property is an existing multi-family apartment complex which is approved for a development density of 30.9 units per acre pursuant to Resolution No. 4-ZAB-98-85, allowing for the construction of 408 dwelling units although only 320 units currently exist. To the west of the Village Center, directly across NW 68th Avenue, is a 348-unit multi-family residential development. South of the property lies two individual tracts of land, one zoned commercial under the BU-1A classification and the other zoned limited apartment house residential (RU-4L). In turn, American Senior High School abuts the Village Center to the east.

The Village Center property is designated OFFICE/RESIDENTIAL on the County's CDMP Future Land Use Map. With the exception of the two tracts of land located directly to the south that are also designated OFFICE/RESIDENTIAL, the Village Center is entirely

Ms. Diane O'Quinn Williams

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encompassed by land designated MEDIUM DENSITY residential. According to the Land Use Element of the CDMP, residential development is permitted within the OFFICE/RESIDENTIAL category at "one density [level] higher than that allowed in the adjoining or adjacent residentially designated area on the same side of the abutting principal roadway." (CDMP Land Use Element I-36). In the present application, all residentially designated areas abutting the Property are designated MEDIUM DENSITY residential permitting 13 to 25 dwelling units per gross acre. One category higher than this density level, as permitted by the County's Comprehensive Plan, is MEDIUM-HIGH DENSITY residential, which permits development of 25 to 60 dwelling units per gross acre.¹ Overall, the proposed redevelopment of the Village Center property is compatible with the surrounding community and is consistent with the provisions of the CDMP.

The Country Club Towers Subdivision

Provided that the application to rezone the Village Center property is approved, the Applicant proposes to unify the Village Center property with the Country Club Towers property in order to provide for one cohesive residential community. Physical changes to the Country Club Towers property will be minor. In fact, the only changes that will occur, if this application is approved, will be a slight reconfiguration of the private roadways within the Country Club Towers property to provide for interconnectivity between the properties, relocation of the points of ingress and egress, and the creation of a new rental office/gymnasium building, pool deck, and recreation. To effectuate this goal of developing an interconnected and cohesive residential development the Applicant seeks a modification of Resolution No. 4-ZAB-98-85, passed and adopted by the Metropolitan Dade County Zoning Appeals Board on the 27th day of March, 1985, which tied the Country Club Towers to certain development plans.

At the time of submitting the application to rezone the Village Center property, the Applicant was barred from requesting modifications of previously approved covenants and restrictions due to the Third District Court of Appeal's decision in *Miami-Dade County v. Omnipoint Holdings, Inc.* However, on April 22, 2003, in response to the holdings delivered in

¹ Additionally, Section I-26 of the Future Land Use Element permits density averaging mechanisms where two or more properties are unified under a single ownership, as is proposed in this case. The density averaging procedures allow for logical distribution and transfer of permitted residential units across two or more legally unified properties. The benefits of these provisions of the CDMP as they pertain to good urban design are demonstrated on the enclosed plans.

Ms. Diane O'Quinn Williams

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adopted Ordinance No. 03-93 amending, among other things, Section 33-311 of the Code of Miami-Dade County (the "Code") and providing standards for Community Zoning Appeals Boards and the Board of County Commissioners to analyze and review modifications to or elimination of conditions and covenants that were approved or accepted as part of a public hearing. In consideration of this newly adopted ordinance and in conjunction with the pending application to rezone the Property, the Applicant hereby respectfully requests the following modification to Resolution 4-ZAB-98-85 attached to and affecting the Country Club Towers property:

Modification of Condition #1 of Resolution No. 4-ZAB-98-85, passed and adopted by the Metropolitan Dade County Zoning Appeals Board on the 27th day of March, 1985 which modified Condition #3 of Resolution Z-190-71, passed and adopted by the Board of County Commissioners on the 16th day of September, 1971 and further modified by Resolution Z-255-74, passed and adopted by the Board of County commissioners on the 24th day of September, 1974 as follows:

From: "That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Apartments Conversion for Country Club Towers', as prepared by Salvador M. Cruxent, Architect, dated 12-20-84, and consisting of 3 pages."

To: "That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Country Club Towers Second Phase', as prepared by Salvador M. Cruxent, Architect, last dated 06-24-03, and consisting of 11 pages."

A copy of Resolution 4-ZAB-98-85 is attached hereto as Applicants' Exhibit "C".

The purpose of the modification, as indicated above, is not to permit for the redevelopment of the Country Club Towers property. Rather, in order to provide for a unified residential complex, the Applicants sole reason to modify Resolution 4-ZAB-98-85 is to permit

Ms. Diane O'Quinn Williams

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November 7, 2003

for a slight reconfiguration of the private roadway pattern and relocation of the ingress or egress access points of the Country Club Towers property.

The current application to modify Resolution 4-ZAB-98-85 falls within two potential categories under Ordinance No. 03-93. The first is Subsection III, which sets forth the standards for modification or elimination of conditions and of restrictive covenants when no new adverse impacts will result. The second is Subsection V, which sets forth the standards when the public benefit outweighs the public burden.

The conditions imposed through Subsection III, allowing for modification or elimination of conditions when no new adverse impacts will result, are fully satisfied in this case. The slight reconfiguration of the private roadways on the Country Club Towers property and relocation of ingress and egress access points will:

1. Not result in an increase of more than 10% in trips generated above that generated by the approved development;
2. Will not result in an increase in projected demand for local parks;
3. Will not result in an increase in demand placed on public stormwater drainage systems of more than 10%. There are no approved plans of record for the Property; accordingly, there were no measurable "site impacts" insofar as drainage, design, etc. in the approving Resolutions;
4. Will not result in an increase of school-aged children;
5. Will not result in any increase in potable water, sanitary sewer, or solid waste disposal demand for which adequate capacity is not available;
6. Will not result in any material increase in the risk of potential for discharge or spillage of pollutants, or generation of carbon monoxide at unsafe levels;

Ms. Diane O'Quinn Williams

Page 7

November 7, 2003

7. Will not result in any material in the potential for damage to jurisdictional wetlands;
8. Will not result in a reduction in the area under tree canopy of more than 10%;
9. Will not result in any material increase in the risk of smoke, fire, odors, gases, excessive noise or vibration;
10. Will not result in an increase in building cubic content on the subject property of more than 10% or no more than 10% of the medium building cubic content on similarly zoned parcels in the immediate vicinity, whichever is larger;
11. Will not result in a decrease in the features or landscaping that buffer the existing use from properties in the immediate vicinity;
12. Will not result in any material decrease in the privacy enjoyed by adjoining properties;
13. Will not result in any material diminution of an existing view of vista to any landmark, natural area or water body from any window or door in any residential unit or on an adjoining parcel of land;
14. Will not result in any material increase in the potential for vehicular/pedestrian conflicts;
15. Will not result in a material and obvious departure of the aesthetic character of the immediate vicinity taking into account the architectural design, scale, height, mass and building materials of existing structures, pattern of development and open space;

Ms. Diane O'Quinn Williams
Page 8
November 7, 2003

16. Will not result in any material increase in the area of shadow or of light from outdoor lighting cast onto adjacent parcels;
17. Will not result in the material change and the manner of hours of operation on the subject property so differing from the similar existing or approved uses in the immediate vicinity that the convenient, safe, peaceful or intended uses of such uses is interrupted or materially diminished;
18. Will not result in any material change in the density or intensity of use of the subject property so differing from the density or intensity of other existing or approved uses in the immediate vicinity that the subject property would represent an obvious departure from the established development pattern of the immediate vicinity;
19. Will not result in a material change in the type of use of the subject property so differing from the existing or approved uses in the immediate vicinity that the subject property would represent an obvious departure from the established pattern of use in the immediate vicinity;
20. Will not result in a use of land that will have a significant adverse impact upon the value of properties in the immediate vicinity; and
21. Will not result in a material increase in the height or volume of open lot uses or facilities or a material increase in intensity of allowed open lot uses.

Finally, as noted above, the Applicant is eligible to proceed under Section 17(V) of the new ordinance as the modification of the subject condition grants a public benefit that clearly outweighs the additional new public burdens. The impact on neighboring properties is minimal to non-existent and the proposed use is compatible to land uses currently existing within the surrounding area.

Ms. Diane O'Quinn Williams

Page 9

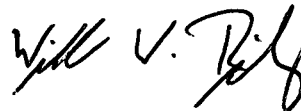
November 7, 2003

Staff Comments

On July 16th, 2003, the current application was reviewed by the lower council of the Miami-Dade County Development Impact Review Committee (DIC). At that meeting, staff representatives from the County's Department of Public Works, the Fire Department, and the Department of Planning and Zoning each made a number of comments and suggestions for revisions to the plans. Since that meeting date, the Applicant has fully addressed each of these comments and all of the foregoing Departments have "signed-off" on the plans and have approved the same to proceed to the County's DIC Executive Council. These revisions include the following: (1) The creation of a de-acceleration lane along NW 68th Avenue providing, among other things, ample automobile stacking for visitors and residents entering the community from NW 68th Avenue; (2) The creation of a break-through restricted emergency vehicle access entranceway along NW 68th Avenue; (3) The modification of the entranceway along NW 186th Street to provide only for resident and emergency ingress and egress; and (4) The modification of the open-aiored parking lot area located between Proposed Building "A" and "B" to provide for a continuous traffic flow pattern that allows automobiles, including emergency vehicles, to circulate around Proposed Building "A" and gain access to Proposed Building "B" without the need for turnarounds within the parking area.

We look forward to your favorable review of the enclosed Application. If we can provide you with additional information or documents, please do not hesitate to contact me at (305) 375-6139.

Very truly yours,



William W. Riley

cc: Stanley B. Price, Esquire

BILZIN SUMBERG BAENA PRICE & AXELROD LLP

A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONS

200 SOUTH BISCAYNE BOULEVARD, SUITE 2500 • MIAMI, FLORIDA 33131-5340

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William W. Riley, Jr., Esquire
Direct Dial: (305) 375-6139
Direct Facsimile: (305) 351-2285
E-mail: wriley@bilzin.com

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NOV 05 2003

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY

November 5, 2003

VIA HAND DELIVERY

Ms. Diane O'Quinn Williams
Miami-Dade County Department of
Planning and Zoning
Eleventh Floor
111 N.W. First Street
Miami, Florida 33128

Re: *Miami-Dade County Zoning Application Z2003000123
Property Folio Numbers 30-2011-003-0010 & 30-2011-005-0010*

SUPPLEMENTAL LETTER OF INTENT

Dear Ms. Williams:

Please accept this correspondence as an additional supplement to our second revised letter of intent regarding the above-referenced Miami-Dade Zoning Application for Public Hearing. This firm represents Jose Milton and Jose Milton Trust (collectively the "Applicant"), owners of approximately 19.312 contiguous acres of land situated along NW 186th Street and NW 68th Avenue in Miami-Dade County.

As you are aware from our previous letters of intent, the two properties that comprise the subject of this application include a 13.204± acre tract of land located at 6790 NW 186 Street (hereinafter the "Country Club Towers Subdivision") together with a 6.108± acre tract of land located at 18255-18345 NW 68th Avenue (hereinafter the "Country Club of Miami Village Center"). The Applicant, as set forth in our previous letters of intent, respectfully requests the following: (1) Pertaining exclusively to the Country Club of Miami Village Center property—a district boundary change from BU-1A to RU-4 permitting the redevelopment of the Village Center from its current use as a retail shopping center to a multi-family apartment complex; and (2) Pertaining exclusively to the Country Club Towers Subdivision property—a modification of Resolution No. 4-ZAB-98-85 substituting previously approved development plans as previously discussed. Additionally, by and through this letter, the Applicant makes the following requests: (1) an unusual use for two entrance features permitting a guardhouse and two separate gated

Ms. Diane O'Quinn Williams

Page 2

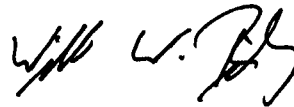
November 5, 2003

entranceways that will collectively service the proposed unified residential community; (2) a non-use variance to permit the construction of the proposed residential buildings at the Country Club of Miami Village Center property with a setback of 47' from the front West property line where 48.2' is required; (3) a non-use variance to permit the construction of the proposed residential garage building at the Country Club of Miami Village Center property with a setback of 15' from the East side property line where 25' is required; and (4) deletion of three agreements executed on May 5th, 1971, tying the commercial development of the Country Club of Miami Village Center property to plans prepared by Carson Bennett Wright entitled Apartment Complex for Country Club of Miami as recorded in ORB 7397, pages 597 through 603, ORB 7397, pages 604 through 609, and in ORB 7397, pages 620 through 625.

This request remains consistent with the Comprehensive Development Master Plan and compatible with the surrounding community. As always, we want to answer any questions or provide any additional information or documentation that you might find helpful. If we can be of assistance, please do not hesitate to contact me at (305) 375-6139.

Thank you for your consideration of this application.

Very truly yours,



William W. Riley

cc: Stanley B. Price, Esquire

BILZIN SUMBERG BAENA PRICE & AXELROD LLP

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STANLEY B. PRICE, P.A.
DIRECT DIAL (305) 350-2374
E-MAIL: sprice@bilzin.com

September 10, 2003

VIA COURIER

Mr. Al Torres, Assistant Director
Miami-Dade County Department of
Planning and Zoning
111 N.W. First Street, 11th Floor
Miami, FL 33128

Re: Jose Milton, Zoning Application #Z2003-000123

Dear Al:

Following our meeting of Monday, September 8, 2003, our office has had an opportunity to review and reflect upon the express provisions of the office/residential category contained within the Miami-Dade County Comprehensive Development Master Plan. We would respectfully suggest that the Department's original interpretation is erroneous in several respects. I would specifically direct your attention to the revised letter of intent, which we are submitting with this application and specific references on pages 2 through 6 of the amended letter of intent for a detailed analysis of the office/residential category.

I trust once you have had an opportunity to more thoroughly review the enclosed letter, and the provisions of the office/residential category, you will agree that our project is in fact compatible with both the surrounding neighborhood and the CDMP provisions.

Thank you for your kind attention to this matter.

Cordially,



Stanley B. Price

SBP:cm

cc: Jose Milton

2nd Revised L.O.I.
RECEIVED
203-123
SEP 11 2003

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY *[Signature]*

BILZIN SUMBERG BAENA PRICE & AXELROD LLP

A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONS

200 SOUTH BISCAYNE BOULEVARD, SUITE 2500 • MIAMI, FLORIDA 33131-5340

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William W. Riley, Jr., Esquire
Direct Dial: (305) 375-6139
Direct Facsimile: (305) 351-2285
E-mail: wriley@bilzin.com

September 9, 2003

VIA HAND DELIVERY

Ms. Diane O'Quinn Williams
Miami-Dade County Department of
Planning and Zoning
Eleventh Floor
111 N.W. First Street
Miami, Florida 33128

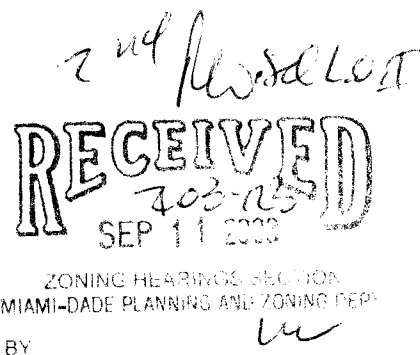
Re: *Miami-Dade County Zoning Application Z2003000123
Property Folio Numbers 30-2011-003-0010 & 30-2011-005-0010*

SUPPLEMENTAL LETTER OF INTENT

Dear Ms. Williams:

Please accept this correspondence as a supplement to our second revised letter of intent regarding the above-referenced Miami-Dade Zoning Application for Public Hearing. This firm represents Jose Milton and Jose Milton Trust (collectively the "Applicant"), owners of approximately 19.312 contiguous acres of land situated along NW 186th Street and NW 68th Avenue in Miami-Dade County.

As you are aware from our previous letters of intent, the two properties that comprise the subject of this application include a 13.204± acre tract of land located at 6790 NW 186 Street (hereinafter the "Country Club Towers Subdivision") together with a 6.108± acre tract of land located at 18255-18345 NW 68th Avenue (hereinafter the "Country Club of Miami Village Center"). By and through this application, the Applicant respectfully requests the following: (1) Pertaining exclusively to the Country Club of Miami Village Center property—a district boundary change from BU-1A to RU-4 permitting the redevelopment of the Village Center from its current use as a retail shopping center to a multi-family apartment complex; and (2) Pertaining exclusively to the Country Club Towers Subdivision property—a modification of Resolution No. 4-ZAB-98-85 substituting previously approved development plans as set forth below.



Ms. Diane O'Quinn Williams
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September 10, 2003

Statement of Proposed Development

As shown on the development plans as prepared by architect Salvador M. Cruxent and last dated August 22, 2003, the Applicant is seeking zoning approval to redevelop the Country Club of Miami Village Center into residential apartments and to unify the Village Center property with the existing Country Club Towers apartment complex—its neighbor to the north—through the execution of a Unity of Title or declaration in lieu thereof. The proposed development if approved, will allow a free flowing residential community where residents can share and enjoy large open green spaces and common areas, swimming pools, recreational buildings, a community convenience store, ingress and egress access points to and from both N.W. 186th Street and N.W. 68th Avenue, and ample off street parking with more than 1300 parking spaces.

Based upon the following analysis, we submit that the proposed redevelopment and property unification are both consistent with the goals, policies, and objectives of the Miami-Dade County Comprehensive Development Master Plan (CDMP) and are compatible with the surrounding area.

The Country Club of Miami Village Center

A. Consistency

The Country Club of Miami Village Center ("Village Center") is currently developed and operated as a commercial retail complex and is designated OFFICE/RESIDENTIAL on the County's CDMP Future Land Use Map. With the exception of the two tracts of land located directly to the south that are also designated OFFICE/RESIDENTIAL, the Village Center is entirely encompassed by land designated MEDIUM DENSITY residential.

According to the Land Use Element of the CDMP, residential development within the OFFICE/RESIDENTIAL category is permitted to proceed at "one density [level] higher than that allowed in the adjoining or adjacent residentially designated area on the same side of the abutting principal roadway." (CDMP Land Use Element I-36). In the instant case, all residentially designated areas abutting the Village Center property are designated MEDIUM DENSITY residential permitting 13 to 25 dwelling units per gross acre. One category higher than this

Ms. Diane O'Quinn Williams

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density level is MEDIUM-HIGH DENSITY residential, which permits development of 25 to 60 dwelling units per gross acre. In terms of the Village Center property, this provision of the CDMP supports a density level of 366 residential units.

Additionally, Section I-26 of the Future Land Use Element permits density-averaging mechanisms where, as is true in the instant case, two or more properties are unified under a common ownership. As explained in Section I-26 of the Future Land use Element, these density-averaging procedures allow for the logical distribution and transfer of permitted residential units across two or more properties. In this case, the Country Club Towers property, one of the two properties to be combined under the present application, is an existing multi-family apartment complex approved with a development density of 30.9 units per acre allowing for the construction of 408 dwelling units. *See* Resolution No. 4-ZAB-98-85. Notwithstanding this permitted density level, however, the Country Club Towers property is currently developed with only 320 units leaving an unutilized development potential of 88 dwelling units. As such, the CDMP permits the applicant to transfer the approved but unutilized development rights granted to the Country Club Towers property to the Village Center. The overall permitted residential development density level for the Village Center property, therefore, allows for the construction of 454 dwelling units. However, the Applicant is requesting approval to develop only 440 units, which is 14 units less than that which is permitted. As a result, the proposed redevelopment of the Village Center property is consistent with the applicable provisions of the CDMP governing residential developments in the OFFICE/RESIDENTIAL category.

B. Compatibility

In addition to the forgoing, the proposed residential development is also compatible with the surrounding area. The term *compatible*, as defined in the American Heritage Dictionary, means "capable of existing or performing in harmonious, agreeable, or congenial combination." It denotes an element of commonality between two items but it does not require those items to be identical. The Village Center property is situated among a variety of commercial, residential, and public facility uses. A survey of land uses within this area demonstrates that the proposed residential development of the Village Center does indeed share a commonality to adjacent development and, as such, is "compatible" with the development density and intensity of the community.

As aforementioned, the 320 unit Country Club Towers property borders the Village Center to the north. Immediately to the west of the Country Club Towers property is the Country

Ms. Diane O'Quinn Williams

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Club Plaza shopping center comprising approximately 11 acres of land and consisting of 108,964± square feet of retail space. To the south of the Country Club Plaza shopping center, abutting the eastern border of the Village Center property, is American Senior High School. In turn, to the west of the Village Center, directly across NW 68th Avenue, is a 348-unit multi-family residential development. And, lastly, to the south of the property lies two individual tracts of land, one zoned commercial under the BU-1A classification and the other zoned limited apartment house residential (RU-4L).

Section I-36 of the CDMP governing development within the OFFICE/RESIDENTIAL category contains four provisions that address the issue of compatibility. The first three provisions appear as follows:

1. Uses allowed in this category include both professional and clerical offices, hotels, motels, and residential uses. Office developments may range from small-scale professional office to large-scale office parks. A specific objective in designing developments to occur in this category is that the development should be compatible with any existing, or zoned, or Plan-designated adjoining or residential uses. The maximum scale and intensity, including height and floor area ratio of office, hotel and motel development in areas designated Office/Residential shall be based on such factors as site size, availability of services, accessibility, and the proximity and scale of adjoining or adjacent residential uses.
2. Where there is no residential use, zoning or designation on either side of the roadway, the intensity of residential development, including height, bulk and floor area ratio shall be no greater than that which would be permitted for an exclusively office use of the site.
3. When residential uses are mixed with office uses, the overall scale and intensity, including height and floor area ratio of the mixed-use development shall be no greater than that which would be approved if the parcel was developed in either office use only or residential use only, whichever is higher.

Ms. Diane O'Quinn Williams

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September 10, 2003

None of these three provisions, however, are applicable to the current application. By the express terms of the first cited provisions, its applicability pertains exclusively to office, hotel and motel developments. The present application does not request approval for an office, hotel or motel use. Similarly, the second quoted provision is specifically restricted to proposed residential developments situated in an area where there are no other residential developments on either side of the roadway abutting the subject property. That is not the scenario presented in the present application. As stated above, the Village Center is surrounded by residential developments on three of its four sides. Consequently, the language quoted in the second provision is not applicable to the present application. Lastly, the third quoted provision is made expressly applicable only to mixed-use developments. Once again, however, the current application proposes to redevelop the Village Center property exclusively for residential uses. As such, the last quoted provision is also not applicable to the present application.

The provision of Section I-36 that is applicable to the facts of the present application, the fourth provision addressing compatibility, provides for the following development restrictions:

"Residential uses are also allowed in the Office/Residential category. In these locations, residential density may be approved up to one density category higher than that allowed in the adjoining or adjacent residentially designated area on the same side of the abutting principal roadway, or up to the density of existing adjoining or adjacent residential development, or zoning if the adjacent or adjoining land is undeveloped whichever is higher."

This provision of the CDMP acts to encourage future residential development within the OFFICE/RESIDENTIAL district and, at the same time, ensures compatibility with adjacent uses by restricting development based upon the permitted density level of adjacent residential communities. As aforementioned, the Village Center is almost entirely surrounded by land designated MEDIUM DENSITY residential. As such, in accounting for elements of sound urban planning, the CDMP directs that any future residential development of the Village Center should occur in accordance with the provisions governing development within the MEDIUM-HIGH DENSITY category. Section I-25 of the Future Land Use Element discussing the MEDIUM-HIGH DENSITY category provides as follows:

This category authorizes apartment buildings ranging from 25 to 60 dwelling units per gross acre. In this category, the height of

Ms. Diane O'Quinn Williams

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September 10, 2003

buildings and, therefore, the attainment of densities approaching the maximum depends to a great extent on the dimensions of the site, conditions such as location and availability of services, ability to provide sufficient off-street parking, and the compatibility with and impact of the development on surrounding areas.

As expressed earlier in this letter, the overall dimensions of the subject properties comprise nearly 20 contiguous acres of land. The site provides ample green space, spacing dimensions, and recreational facilities to support the proposed redevelopment without the necessity of seeking any variances from the Miami-Dade County Code (the "Code"). Additionally, the Applicant has met with various staff representatives from the Miami-Dade County Department of Public Works, the Parks Department, as well as the Fire Department. After reviewing the application individually and later collectively at the Development Impact Review Committee Lower Council meeting, each of these Departments have expressly indicated that the proposed residential redevelopment of the Village Center satisfies all applicable level of service requirements and, as such, offered no objections to recommending approval of the application. Moreover, the Applicant has provided an abundance of off-street parking to serve both residents and visitors of the redeveloped Village Center. As shown on the plans, 1,332 parking spaces are provided where only 1,295 spaces are required.

Lastly, as indicated at the beginning of this analysis, the proposed redevelopment is compatible with the surrounding area. For the character of the "surrounding area" is defined with: (1) a 108,964± square foot retail-shopping plaza that abuts the Village Center property to the northeast; (2) a 30±-acre senior high school that borders the Village Center to the east; (3) a 348-unit apartment building located directly across NW 68th Avenue; and (4) the existing 320 unit Country Club Towers property located to the north. In addition, a 330-unit multi-family apartment complex is located at 7055 NW 186 Street and a 768 unit apartment complex, with heights up to 5 stories, is located at 7010, 6990, 6970, 6952, & 6930-92 NW 186 Street.

If the proposed residential redevelopment of the Village Center property is deemed to be inconsistent with the CDMP based upon an interpretation that the proposed buildings are too high, two presumably unintended consequences would result. First, the legislative intent underlying the above-cited provision of the CDMP providing for development density increases for property located within the OFFICE/RESIDENTIAL district would be subverted. Secondly, the County would arbitrarily deny the Applicant the allowances afforded by Section I-26 of the Future Land Use Element of the CDMP for density averaging. When examined collectively, the

Ms. Diane O'Quinn Williams

Page 7

September 10, 2003

impossibility of redeveloping the Village Center in accordance with the density levels prescribed by Section I-26 and I-36 of the Future Land Use Element while reducing the number of proposed stories is self-evident.

The Country Club Towers Subdivision

Provided that the application to rezone the Village Center property is approved, the Applicant proposes to unify the Village Center property with the Country Club Towers property in order to provide for one cohesive residential community. Physical changes to the Country Club Towers property will be minor. In fact, the only changes that will occur, if this application is approved, will be a slight reconfiguration of the private roadways within the Country Club Towers property to provide for interconnectivity between the properties and relocation of points of ingress and egress. To effectuate this goal of developing an interconnected and cohesive residential development the Applicant seeks a modification of Resolution No. 4-ZAB-98-85, passed and adopted by the Metropolitan Dade County Zoning Appeals Board on the 27th day of March, 1985, which tied the Country Club Towers to certain development plans.

At the time of submitting the application to rezone the Village Center property, the Applicant was barred from requesting modifications of previously approved covenants and restrictions due to the Third District Court of Appeal's decision in *Miami-Dade County v. Omnipoint Holdings, Inc.* However, on April 22, 2003, in response to the holdings delivered in the *Omnipoint* case, the Miami-Dade County Board of County Commissioners passed and adopted Ordinance No. 03-93 amending, among other things, Section 33-311 of the Code of Miami-Dade County (the "Code") and providing standards for Community Zoning Appeals Boards and the Board of County Commissioners to analyze and review modifications to or elimination of conditions and covenants that were approved or accepted as part of a public hearing. In consideration of this newly adopted ordinance and in conjunction with the pending application to rezone the Property, the Applicant hereby respectfully requests the following modification to Resolution 4-ZAB-98-85 attached to and affecting the Country Club Towers property:

Modification of Condition #1 of Resolution No. 4-ZAB-98-85, passed and adopted by the Metropolitan Dade County Zoning Appeals Board on the 27th day of March, 1985 which modified Condition #3 of Resolution Z-190-71, passed and adopted by the Board of County Commissioners on the 16th day of September,

Ms. Diane O'Quinn Williams

Page 8

September 10, 2003

1971 and further modified by Resolution Z-255-74, passed and adopted by the Board of County commissioners on the 24th day of September, 1974 as follows:

From: "That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Apartments Conversion for Country Club Towers', as prepared by Salvador M. Cruxent, Architect, dated 12-20-84, and consisting of 3 pages."

To: "That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Country Club Towers Second Phase', as prepared by Salvador M. Cruxent, Architect, last dated 08-22-03, and consisting of 11 pages."

A copy of Resolution 4-ZAB-98-85 is attached hereto as Applicants' Exhibit "C".

The purpose of the modification, as indicated above, is not to permit for the redevelopment of the Country Club Towers property. Rather, in order to provide for a unified residential complex, the Applicants sole reason to modify Resolution 4-ZAB-98-85 is to permit for a slight reconfiguration of the private roadway pattern and relocation of the ingress or egress access points of the Country Club Towers property.

The current application to modify Resolution 4-ZAB-98-85 falls within two potential categories under Ordinance No. 03-93. The first is Subsection III, which sets forth the standards for modification or elimination of conditions and of restrictive covenants when no new adverse impacts will result. The second is Subsection V, which sets forth the standards when the public benefit outweighs the public burden.

The conditions imposed through Subsection III, allowing for modification or elimination of conditions when no new adverse impacts will result, are fully satisfied in this case. The slight reconfiguration of the private roadways on the Country Club Towers property and relocation of ingress and egress access points will:

Ms. Diane O'Quinn Williams

Page 9

September 10, 2003

1. Not result in an increase of more than 10% in trips generated above that generated by the approved development;
2. Will not result in an increase in projected demand for local parks;
3. Will not result in an increase in demand placed on public stormwater drainage systems of more than 10%. There are no approved plans of record for the Property; accordingly, there were no measurable "site impacts" insofar as drainage, design, etc. in the approving Resolutions;
4. Will not result in an increase of school-aged children;
5. Will not result in any increase in potable water, sanitary sewer, or solid waste disposal demand for which adequate capacity is not available;
6. Will not result in any material increase in the risk of potential for discharge or spillage of pollutants, or generation of carbon monoxide at unsafe levels;
7. Will not result in any material in the potential for damage to jurisdictional wetlands;
8. Will not result in a reduction in the area under tree canopy of more than 10%;
9. Will not result in any material increase in the risk of smoke, fire, odors, gases, excessive noise or vibration;
10. Will not result in an increase in building cubic content on the subject property of more than 10% or no more than 10% of the medium building cubic content on similarly

Ms. Diane O'Quinn Williams
Page 10
September 10, 2003

- zoned parcels in the immediate vicinity, whichever is larger;
11. Will not result in a decrease in the features or landscaping that buffer the existing use from properties in the immediate vicinity;
 12. Will not result in any material decrease in the privacy enjoyed by adjoining properties;
 13. Will not result in any material diminution of an existing view of vista to any landmark, natural area or water body from any window or door in any residential unit or on an adjoining parcel of land;
 14. Will not result in any material increase in the potential for vehicular/pedestrian conflicts;
 15. Will not result in a material and obvious departure of the aesthetic character of the immediate vicinity taking into account the architectural design, scale, height, mass and building materials of existing structures, pattern of development and open space;
 16. Will not result in any material increase in the area of shadow or of light from outdoor lighting cast onto adjacent parcels;
 17. Will not result in the material change and the manner of hours of operation on the subject property so differing from the similar existing or approved uses in the immediate vicinity that the convenient, safe, peaceful or intended uses of such uses is interrupted or materially diminished;
 18. Will not result in any material change in the density or intensity of use of the subject property so differing from the

Ms. Diane O'Quinn Williams
Page 11
September 10, 2003

density or intensity of other existing or approved uses in the immediate vicinity that the subject property would represent an obvious departure from the established development pattern of the immediate vicinity;

19. Will not result in a material change in the type of use of the subject property so differing from the existing or approved uses in the immediate vicinity that the subject property would represent an obvious departure from the established pattern of use in the immediate vicinity;
20. Will not result in a use of land that will have a significant adverse impact upon the value of properties in the immediate vicinity; and
21. Will not result in a material increase in the height or volume of open lot uses or facilities or a material increase in intensity of allowed open lot uses.

Finally, as noted above, the Applicant is eligible to proceed under Section 17(V) of the new ordinance as the modification of the subject condition grants a public benefit that clearly outweighs the additional new public burdens. The impact on neighboring properties is minimal to non-existent and the proposed use is compatible to land uses currently existing within the surrounding area.

Lower Council DIC

On July 16th, 2003, the current application was reviewed by the lower council of the Miami-Dade County Development Impact Review Committee (DIC). At that meeting, staff representatives from the County's Department of Public Works, the Fire Department, and the Department of Planning and Zoning each made a number of comments and suggestions for revisions to the plans. Since that meeting date, the Applicant has fully addressed each of these comments and all of the foregoing Departments have "signed-off" on the plans and have approved the same to proceed to the County's DIC Executive Council. These revisions include the following: (1) The creation of a de-acceleration lane along NW 68th Avenue providing, among other things, ample automobile stacking for visitors and residents entering the community

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September 10, 2003

from NW 68th Avenue; (2) The creation of a break-through restricted emergency vehicle access entranceway along NW 68th Avenue; (3) The modification of the entranceway along NW 186th Street to provide only for resident and emergency ingress and egress; and (4) The modification of the open-aiored parking lot area located between Proposed Building "A" and "B" to provide for a continuous traffic flow pattern that allows automobiles, including emergency vehicles, to circulate around Proposed Building "A" and gain access to Proposed Building "B" without the need for turnarounds within the parking area.

We look forward to your favorable review of the enclosed Application. If we can provide you with additional information or documents, please do not hesitate to contact me at (305) 375-6139.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'W. W. Riley', with a stylized flourish at the end.

William W. Riley

cc: Stanley B. Price, Esquire

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ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY: 

June 26, 2003

VIA HAND DELIVERY

Ms. Diane O'Quinn Williams
Miami-Dade County Department of
Planning and Zoning
Eleventh Floor
111 N.W. First Street
Miami, Florida 33128

Re: *Miami-Dade County Zoning Application Z2003000123*
Property Folio Numbers 30-2011-003-0010 & 30-2011-005-0010

REVISED LETTER OF INTENT

Dear Ms. Williams:

Please accept this correspondence as our revised letter of intent regarding the above-referenced Miami-Dade Zoning Application for Public Hearing. This firm represents Jose Milton and Jose Milton Trust (collectively the "Applicant"), owners of approximately 19.312 contiguous acres of land situated along NW 186th Street and NW 68th Avenue in Miami-Dade County.

The properties that comprise the subject of this application include a 13.204± acre tract of land located at 6790 NW 186 Street (hereinafter the "Country Club Towers Subdivision") together with a 6.108± acre tract of land located at 18255-18345 NW 68th Avenue (hereinafter the "Country Club of Miami Village Center"). By and through the amended application, which is attached hereto, the Applicant respectfully requests the following: (1) Pertaining exclusively to the Country Club of Miami Village Center property—a district boundary change from BU-1A to RU-4 permitting the redevelopment of the Village Center from its current use as a retail shopping center to a multi-family apartment complex; and (2) Pertaining exclusively to the Country Club Towers Subdivision property—a modification of Resolution No. 4-ZAB-98-85 substituting previously approved development plans as set forth below.

Ms. Diane O'Quinn Williams
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Statement of Proposed Development

As shown on the attached development plans as prepared by architect Salvador M. Cruxent and last dated June 24, 2003, the Applicant is seeking zoning approval to redevelop the Country Club of Miami Village Center into residential apartments and, at the same time, seeks to unify the Village Center property with the existing Country Club Towers apartment complex—its neighbor to the north—through the execution of a Unity of Title or declaration in lieu thereof. The proposed development if approved, will allow a free flowing residential community where residents can share and enjoy large open green spaces and common areas, swimming pools, recreational buildings, a community convenience store, ingress and egress access points to and from both N.W. 186th Street and N.W. 68th Avenue, and ample off street parking with more than 1300 parking spaces.

Based upon the following analysis, we submit that the proposed redevelopment and property unification are both consistent with the goals, policies, and objectives of the Miami-Dade County Comprehensive Development Master Plan (CDMP) and are compatible with the surrounding area.

The Country Club of Miami Village Center

The Country Club of Miami Village Center ("Village Center") is currently developed as a commercial retail complex. Abutting the property to the north is the Country Club Towers Subdivision. The Country Club Towers property is an existing multi-family apartment complex which is approved for a development density of 30.9 units per acre pursuant to Resolution No. 4-ZAB-98-85, allowing for the construction of 408 dwelling units although only 320 units currently exist. To the west of the Village Center, directly across NW 68th Avenue, is a 348-unit multi-family residential development. South of the property lies two individual tracts of land, one zoned commercial under the BU-1A classification and the other zoned limited apartment house residential (RU-4L). In turn, American Senior High School abuts the Village Center to the east.

The Village Center property is designated OFFICE/RESIDENTIAL on the County's CDMP Future Land Use Map. With the exception of the two tracts of land located directly to the south that are also designated OFFICE/RESIDENTIAL, the Village Center is entirely encompassed by land designated MEDIUM DENSITY residential. According to the Land Use Element of the CDMP, residential development is permitted within the OFFICE/RESIDENTIAL category at "one density [level] higher than that allowed in the adjoining or adjacent residentially

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designated area on the same side of the abutting principal roadway." (CDMP Land Use Element I-36). In the present application, all residentially designated areas abutting the Property are designated MEDIUM DENSITY residential permitting 13 to 25 dwelling units per gross acre. One category higher than this density level, as permitted by the County's Comprehensive Plan, is MEDIUM-HIGH DENSITY residential, which permits development of 25 to 60 dwelling units per gross acre. Additionally, the Section I-26 of the Future Land Use Element permits density averaging mechanisms where two or more properties are unified under a single ownership, as is proposed in this case. The density averaging procedures allow for logical distribution and transfer of permitted residential units across two or more legally unified properties. The benefits of these provisions of the CDMP as they pertain to good urban design are demonstrated on the enclosed plans. Overall, the proposed redevelopment of the Village Center property is compatible with the surrounding community and is consistent with the provisions of the CDMP.

The Country Club Towers Subdivision

Provided that the application to rezone the Village Center property is approved, the Applicant proposes to unify the Village Center property with the Country Club Towers property in order to provide for one cohesive residential community. Physical changes to the Country Club Towers property will be minor. In fact, the only changes that will occur, if this application is approved, will be a slight reconfiguration of the private roadways within the Country Club Towers property to provide for interconnectivity between the properties and relocation of points of ingress and egress. To effectuate this goal of developing an interconnected and cohesive residential development the Applicant seeks a modification of Resolution No. 4-ZAB-98-85, passed and adopted by the Metropolitan Dade County Zoning Appeals Board on the 27th day of March, 1985, which tied the Country Club Towers to certain development plans.

At the time of submitting the application to rezone the Village Center property, the Applicant was barred from requesting modifications of previously approved covenants and restrictions due to the Third District Court of Appeal's decision in *Miami-Dade County v. Omnipoint Holdings, Inc.* However, on April 22, 2003, in response to the holdings delivered in the *Omnipoint* case, the Miami-Dade County Board of County Commissioners passed and adopted Ordinance No. 03-93 amending, among other things, Section 33-311 of the Code of Miami-Dade County (the "Code") and providing standards for Community Zoning Appeals Boards and the Board of County Commissioners to analyze and review modifications to or elimination of conditions and covenants that were approved or accepted as part of a public hearing. In consideration of this newly adopted ordinance and in conjunction with the pending

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application to rezone the Property, the Applicant hereby respectfully requests the following modification to Resolution 4-ZAB-98-85 attached to and affecting the Country Club Towers property:

Modification of Condition #1 of Resolution No. 4-ZAB-98-85, passed and adopted by the Metropolitan Dade County Zoning Appeals Board on the 27th day of March, 1985 which modified Condition #3 of Resolution Z-190-71, passed and adopted by the Board of County Commissioners on the 16th day of September, 1971 and further modified by Resolution Z-255-74, passed and adopted by the Board of County commissioners on the 24th day of September, 1974 as follows:

From: "That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Apartments Conversion for Country Club Towers', as prepared by Salvador M. Cruxent, Architect, dated 12-20-84, and consisting of 3 pages."

To: "That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Country Club Towers Second Phase', as prepared by Salvador M. Cruxent, Architect, last dated 06-24-03, and consisting of 11 pages."

A copy of Resolution 4-ZAB-98-85 is attached hereto as Applicants' Exhibit "C".

The purpose of the modification, as indicated above, is not to permit for the redevelopment of the Country Club Towers property. Rather, in order to provide for a unified residential complex, the Applicants sole reason to modify Resolution 4-ZAB-98-85 is to permit for a slight reconfiguration of the private roadway pattern and relocation of the ingress or egress access points of the Country Club Towers property.

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The current application to modify Resolution 4-ZAB-98-85 falls within two potential categories under Ordinance No. 03-93. The first is Subsection III, which sets forth the standards for modification or elimination of conditions and of restrictive covenants when no new adverse impacts will result. The second is Subsection V, which sets forth the standards when the public benefit outweighs the public burden.

The conditions imposed through Subsection III, allowing for modification or elimination of conditions when no new adverse impacts will result, are fully satisfied in this case. The slight reconfiguration of the private roadways on the Country Club Towers property and relocation of ingress and egress access points will:

1. Not result in an increase of more than 10% in trips generated above that generated by the approved development;
2. Will not result in an increase in projected demand for local parks;
3. Will not result in an increase in demand placed on public stormwater drainage systems of more than 10%. There are no approved plans of record for the Property; accordingly, there were no measurable "site impacts" insofar as drainage, design, etc. in the approving Resolutions;
4. Will not result in an increase of school-aged children;
5. Will not result in any increase in potable water, sanitary sewer, or solid waste disposal demand for which adequate capacity is not available;
6. Will not result in any material increase in the risk of potential for discharge or spillage of pollutants, or generation of carbon monoxide at unsafe levels;
7. Will not result in any material in the potential for damage to jurisdictional wetlands;

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8. Will not result in a reduction in the area under tree canopy of more than 10%;
9. Will not result in any material increase in the risk of smoke, fire, odors, gases, excessive noise or vibration;
10. Will not result in an increase in building cubic content on the subject property of more than 10% or no more than 10% of the medium building cubic content on similarly zoned parcels in the immediate vicinity, whichever is larger;
11. Will not result in a decrease in the features or landscaping that buffer the existing use from properties in the immediate vicinity;
12. Will not result in any material decrease in the privacy enjoyed by adjoining properties;
13. Will not result in any material diminution of an existing view of vista to any landmark, natural area or water body from any window or door in any residential unit or on an adjoining parcel of land;
14. Will not result in any material increase in the potential for vehicular/pedestrian conflicts;
15. Will not result in a material and obvious departure of the aesthetic character of the immediate vicinity taking into account the architectural design, scale, height, mass and building materials of existing structures, pattern of development and open space;
16. Will not result in any material increase in the area of shadow or of light from outdoor lighting cast onto adjacent parcels;

Ms. Diane O'Quinn Williams

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17. Will not result in the material change and the manner of hours of operation on the subject property so differing from the similar existing or approved uses in the immediate vicinity that the convenient, safe, peaceful or intended uses of such uses is interrupted or materially diminished;
18. Will not result in any material change in the density or intensity of use of the subject property so differing from the density or intensity of other existing or approved uses in the immediate vicinity that the subject property would represent an obvious departure from the established development pattern of the immediate vicinity;
19. Will not result in a material change in the type of use of the subject property so differing from the existing or approved uses in the immediate vicinity that the subject property would represent an obvious departure from the established pattern of use in the immediate vicinity;
20. Will not result in a use of land that will have a significant adverse impact upon the value of properties in the immediate vicinity; and
21. Will not result in a material increase in the height or volume of open lot uses or facilities or a material increase in intensity of allowed open lot uses.

Finally, as noted above, the Applicant is eligible to proceed under Section 17(V) of the new ordinance as the modification of the subject condition grants a public benefit that clearly outweighs the additional new public burdens. The impact on neighboring properties is minimal to non-existent and the proposed use is compatible to land uses currently existing within the surrounding area.

Ms. Diane O'Quinn Williams

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June 26, 2003

We look forward to your favorable review of the enclosed Application. If we can provide you with additional information or documents, please do not hesitate to contact me at (305) 375-6139.

Very truly yours,

A handwritten signature in black ink, appearing to read "Will W. Riley", written in a cursive style.

William W. Riley

cc: Stanley B. Price, Esquire

BILZIN SUMBERG BAENA PRICE & AXELROD LLP

A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONS

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William W. Riley, Jr., Esquire
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E-mail: wriley@bilzin.com

March 19, 2003

VIA HAND DELIVERY

Ms. Diane O'Quinn Williams
Miami-Dade County Department of
Planning and Zoning
Eleventh Floor
111 N.W. First Street
Miami, Florida 33128

RECEIVED
203-123
APR 09 2003

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY BC

Re: Jose Milton Trust
Folio Number 30-2011-003-0010

LETTER OF INTENT

Dear Ms. Williams:

Please accept this correspondence as our formal Letter of Intent in connection with your Department's rules and regulations for filing a Miami-Dade County Department of Planning and Zoning Application for Public Hearing. This firm represents Jose Milton Trust ("Applicant"), the owner of approximately 6.108 contiguous acres of land located at 18255-18345 NW 68th Avenue (hereinafter the "Property").

By and through the enclosed application, the Applicant respectfully requests a district boundary change from BU-1A to RU-4 to permit the redevelopment of the Property for multi-family apartments. Based upon the following analysis, we submit that the proposed zoning change is both consistent with the policies and objectives of the Miami-Dade County Comprehensive Development Master Plan (CDMP) and compatible with the surrounding area.

The Property is currently developed as a commercial retail complex known as the County Club of Miami Village Center located along NW 68th Avenue, lying one parcel south of NW 186 Street. Abutting the Property to the north is the Country Club Towers Subdivision, a 320-

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unit multi-family apartment complex. Similarly, to the west of the Property, directly across NW 68th Avenue, is a 348-unit multi-family residential development. To the south of the Property lies two individual tracts of land, one zoned commercial under the BU-1A classification and the other zoned limited apartment house residential (RU-4L). In turn, American Senior High School abuts the Property to the east.

The Property is designated OFFICE/RESIDENTIAL on the County's CDMP Future Land Use Map. With the exception of the two tracts of land located directly to the south that are also designated OFFICE/RESIDENTIAL, the Property is entirely encompassed by land designated MEDIUM DENSITY residential. In fact, intense residential developments currently border the Property on three of its four sides. Therefore, we submit that the requested zoning change to residential is compatible with the surrounding area.

Furthermore, the provisions of the CDMP support the requested change to RU-4. According to the Land Use Element of the CDMP, residential development is permitted within the OFFICE/RESIDENTIAL category at "one density [level] higher than that allowed in the adjoining or adjacent residentially designated area on the same side of the abutting principal roadway." (CDMP Land Use Element I-36). In the present application, all residentially designated areas abutting the Property are designated MEDIUM DENSITY residential permitting 13 to 25 dwelling units per gross acre. One category higher than this density level, as permitted by the County's Comprehensive Plan, is MEDIUM-HIGH DENSITY residential, which permits development of 25 to 60 dwelling units per gross acre. Therefore, the RU-4 zoning classification is consistent with the provisions of the CDMP.

We look forward to your favorable review of the enclosed Application. If we can provide you with additional information or documents, please do not hesitate to contact me at (305) 375-6139.

Very truly yours,



William W. Riley

cc: Stanley B. Price, Esquire